

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 27, 2004

In Reply Refer To:
Portland General Electric Company
Docket No. ER04-322-000

Portland General Electric Company
ATTN: Richard George, Assistant General Counsel
121 SW Salmon St.
1 WTC13
Portland, OR 97204

Dear Mr. George:

1. On December 22, 2003, Portland General Electric Company (PGE) submitted for filing revised tariff sheets that include, among other things, rates for Retail Network Integration Transmission (RNIT) Service under PGE's Open Access Transmission Tariff (OATT). Specifically, the revised tariff sheets include retail access service definitions and an Attachment L, which provides retail access transmission rates. The revised tariff sheets are accepted for filing, effective March 1, 2004, as requested.¹

2. PGE states that Retail Access Service for nonresidential customers has been available in Oregon since March 1, 2002, however, no customers in Oregon have taken service yet under the direct access option. PGE also states that after extensive discussions with stakeholders in Oregon's direct access program, PGE agreed to propose these modifications to remove a perceived barrier to the development and use of an open access market in Oregon. Currently, billing determinants for all transmission customers are based on each customer's coincident peak demand. PGE is proposing RNIT rates for transmission and certain ancillary services that are designed to allow billings to Energy Service Suppliers (ESS) for their retail access customers, based on each customer's non-coincidental monthly (NCP) billing demand. PGE also states that the proposed rates are similar to those of other utilities that provide OATT retail access services. Finally, PGE notes that it is not seeking any change in its OATT revenue requirements.

¹ Rate Schedule Designation: Portland General Electric Company, FERC Electric Tariff, Second Revised Volume No. 8, Original Sheet Nos. 15A, 123, and 124, First Revised Sheet Nos. 2 through 8, 10, 14, 15, 64 through 66, and 72B (superseding original sheets), and Second Revised Sheet No. 110 (superseding First Revised Sheet No. 110).

3. The filing was noticed on December 31, 2003,² with comments, protests, or motions to intervene due on or before January 12, 2004. An Errata Notice was issued on January 22, 2004. On January 12 and 15, 2004, respectively, Sempra Energy Solutions (Sempra) filed a Motion to Intervene and Comments, and Supplemental Comments. Sempra requests waiver of the prior notice requirements under the Commission's Regulations (18 C.F.R. § 35.3), pursuant to Section 35.11 of the Commission's Regulations (18 C.F.R. §35.11), to allow an effective date of January 1, 2004, for PGE's proposed tariff revisions. No other comments were filed. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), Sempra's timely, unopposed motion to intervene serves to make it a party to this proceeding.

4. Sempra states that it began retail access service on January 1, 2004, and argues that any bill based on PGE's current OATT transmission rates will be excessive and higher than the rates of PGE's retail bundled customers. Accordingly, Sempra requests that the Commission waive the prior notice requirement and allow a January 1, 2004, effective date for PGE's proposed retail access service provisions.

5. We note that PGE, the filing entity, did not seek such waiver request. Rather, PGE requests that the tariff revisions be made effective March 1, 2004. Consistent with our precedent, we will deny Sempra's request.³ Additionally, we note that PGE's tariff revisions involve a rate design change, and that the Commission generally has found that a change in rate design is appropriate only on a prospective basis.⁴

By direction of the Commission.

Linda Mitry,
Acting Secretary.

² 69 Fed. Reg. 1713 (Jan. 12, 2004).

³ See New England Power Pool, 97 FERC ¶ 61,338 (2001); reh'g denied, 98 FERC ¶ 61,299 (2002).

⁴ See Consumers Energy Company, 89 FERC ¶ 61,138, at p. 61,397 (1999) ("The Commission's policy, albeit discretionary, is to avoid retroactive application of changes in rate design."). See also Commonwealth Edison Company, 25 FERC ¶ 61,323, at p. 61,732 (1983), reh'g denied, 26 FERC ¶ 61,099 (1984) (finding that "[t]he harm which would result from retroactive implementation outweighs the harm to the partial requirements customers resulting from a temporary rate disparity").